IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 107 OF 2005

Ramesh Krishna Sakunde ... Appellant (Ori.Defendant)

V/s

Gulabrao Dnyandev Sakunde ... Respondent (Ori.Plaintiff)

Ms. Vidya Vyavahare for the appellant.

Mr. Mahendra Bajpai i/by M/s. Ashok Law firm for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 11TH JULY, 2005

P.C.:

1. The appeal is preferred by the appellant against the judgment and order passed by the Addl. District Judge, Satara, dated 5.11.2004 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Sr.Divn., Satara, dated 29.7.1995 decreeing the suit for recovery of the amount of Rs.26,300/- alongwith the interest at the rate of 6% p.a. on the principal amount of Rs.18,000/-.

2. I have heard the learned counsel for both parties. Perused the record.

3. The plaintiff filed the suit for recovery of the amount which was given to the defendant time to time and when on demand the defendant did not pay the amount. Hence the suit came to be filed.

4. The learned Trial Judge issued the summons to the defendant which was served but the defendant remained absent and hence the suit proceeded ex-parte against him and came to be decreed on the basis of evidence before the Trial Court.

The appeal was carried to the District Court, Satara. The Addl. District Judge, after hearing both parties came to the conclusion that there was proper service of suit summons and contention of the defendant that he was not properly served was discarded and the appeal came to be dismissed. Hence the present appeal.

5. At the outset, it may be noted that there is no substantial question of law involved in this appeal. It must be noted that both the Courts below have held that the service of suit summons was properly made on the office address of the appellant-defendant and summons was returned served with the signature and office stamp

of the despatch clerk of the branch of defendant's office. This aspect was held to be proper service of the suit summons. In my considered view, there is no illegality in holding that such service was proper especially when the suit summons was on the office address of the defendant. It is denied by the defendant that he is working in the said office. In view of this aspect, there is no merit in the appeal especially when the liability to make payment is not at all disputed in lower appellate Court.

In view of these aspects, the appeal has no merit and stands dismissed with no order as to costs.

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